

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

KIMBERLY GENEREUX,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
COLUMBIA SUSSEX CORPORATION	)	
d/b/a WESTIN CASUARINA HOTEL,	)	
STARWOOD HOTELS & RESORTS	)	
WORLDWIDE, INC., WESTIN LICENSE	)	Civil Action No. 05-CV-10879-JLT
COMPANY, WESTIN LICENSE	)	
COMPANY NORTH, WESTIN	)	
MANAGEMENT COMPANY NORTH,	)	
INC., WESTIN MANAGEMENT	)	
COMPANY EAST, WESTIN NORTH	)	
AMERICA MANAGEMENT COMPANY,	)	
INC., GALLEON BEACH RESORT, LTD.,	)	
and CORPORATE DEFENDANTS X1-	)	
100,	)	
	)	
Defendants.	)	

**ANSWER**

NOW COME defendants Starwood Hotels & Resorts Worldwide, Inc. (“Starwood Corp.”), Westin License Company (“Westin License Co.”), Westin Management Company North f/k/a Westin License Company North (“Westin Management North”), Westin Management Company East (“Westin Management East”), and Westin North America Management Company (“Westin North America”)(these defendants will sometimes hereinafter collectively be referred to as the “Defendants”) and hereby answer the First Amended Complaint And Jury Trial Demand (“Complaint”) of plaintiff Kimberly Genereux (“Plaintiff”). In responding to the Complaint, the Defendants, and each of them, do not admit, and reserve their rights to dispute, that they are properly named as defendants in this action.

COMPLAINT

PARTIES

1. The Defendants deny the allegations of paragraph 1 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
2. The Defendants deny the allegations of paragraph 2 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
3. The Defendants admit the allegations of paragraph 3 of the Complaint insofar as it alleges that Starwood Corp. is a corporation organized under the laws of the State of Maryland with a principal place of business at 1111 Westchester Avenue, White Plains, New York. The remaining allegations of paragraph 3 of the Complaint constitute legal conclusions to which no response is required by the Defendants. To the extent a response is deemed necessary to these allegations, they are denied.
4. The Defendants admit the allegations of paragraph 4 of the Complaint.
5. The Defendants deny the allegations of paragraph 5 of the Complaint insofar as it alleges the existence of a corporation named “Westin License Company North.” The Defendants admit the allegations of paragraph 5 insofar as it alleges that defendant Westin Management Company North f/k/a Westin License Company North is a corporation organized under the laws of the State of Delaware with a principal place of business at 1111 Westchester Avenue, White Plains, New York. The remaining allegations of paragraph 5 constitute legal conclusions to which no response is required by the Defendants. To the extent a response is deemed necessary to these allegations, they are denied.
6. The Defendants deny the allegations of paragraph 6 of the Complaint insofar as it alleges

the existence of a corporation named “Westin Management Company North, Inc.” The Defendants admit the allegations of paragraph 6 insofar as it alleges that defendant Westin Management Company North f/k/a Westin License Company North is a corporation organized under the laws of the State of Delaware with a principal place of business at 1111 Westchester Avenue, White Plains, New York. The remaining allegations of paragraph 5 constitute legal conclusions to which no response is required by the Defendants. To the extent a response is deemed necessary to these allegations, they are denied.

7. The Defendants admit the allegations of paragraph 7 of the Complaint insofar as it alleges that Westin Management East is a corporation organized under the laws of the State of Delaware with a principal place of business at 1111 Westchester Avenue, White Plains, NY. The remaining allegations of paragraph 7 of the Complaint constitute legal conclusions to which no response is required by the Defendants. To the extent a response is deemed necessary to these allegations, they are denied.
8. The Defendants deny the allegations of paragraph 8 of the Complaint insofar as it alleges the existence of a corporation named “Westin North America Management Company, Inc.” The Defendants admit the allegations of paragraph 8 insofar as it alleges that defendant Westin North America Management Company is a corporation organized under the laws of the State of Delaware with a principal place of business at 1111 Westchester Avenue, White Plains, New York. The remaining allegations of paragraph 8 constitute legal conclusions to which no response is required by the Defendants. To the extent a response is deemed necessary to these allegations, they are denied.
9. The Defendants deny the allegations of paragraph 9 of the Complaint for lack of

sufficient information to form a belief as to the truth or falsity thereof.

10. The Defendants deny the allegations of paragraph 10 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.

#### JURISDICTION AND VENUE

11. The allegations of paragraph 11 of the Complaint constitute legal conclusions to which no response is required by the Defendants. To the extent a response is deemed necessary to these allegations, they are denied.
12. The allegations of paragraph 12 of the Complaint constitute legal conclusions to which no response is required by the Defendants. To the extent a response is deemed necessary to these allegations, they are denied.

#### FACTS COMMON TO ALL COUNTS

13. The Defendants admit the allegations of paragraph 13 of the Complaint insofar as it alleges that: (a) defendant Starwood Corp. owns and operates hotels throughout the United States and in certain foreign countries; (b) defendant Westin License Co. holds licensing rights for certain hotels throughout the United States and in certain foreign countries; (c) defendants Westin Management North, Westin Management East, and Westin North America manage certain hotels throughout the United States. The Defendants deny the remaining allegations of paragraph 13.
14. The Defendants admit the allegations of paragraph 14 of the Complaint insofar as it alleges that: (a) defendant Starwood Corp. owns, controls, operates, manages or supervises certain hotels within the Commonwealth of Massachusetts; (b) defendant Westin License Co. licenses certain hotels within the Commonwealth of Massachusetts; (c) defendant Westin North America is qualified to do business, and does business in, the

Commonwealth of Massachusetts; (d) defendants Westin Management North and Westin Management East are qualified to do business in the Commonwealth of Massachusetts.

The Defendants deny the remaining allegations of paragraph 14 of the Complaint.

15. The Defendants deny the allegations of paragraph 15 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
16. The Defendants admit the allegations of paragraph 16 of the Complaint insofar as it alleges that Westin License Co. licensed a hotel known as the “The Westin Casuarina Resort, Grand Cayman” (the “Premises”), located at Seven Mile Beach, Grand Cayman Island, B.W.I., to defendant Galleon Beach Resort Ltd. The Defendants deny the allegations of paragraph 16 insofar as it alleges that Grand Cayman is an overseas dependency of the United Kingdom of Great Britain and Northern Ireland for lack of sufficient information to form a belief as to the truth or falsity thereof. The remaining allegations of paragraph 16 are denied.
17. The Defendants admit the allegations of paragraph 17 of the Complaint insofar as it alleges that as of the date of the incident which is the subject of this matter Westin License Co. may have, directly or indirectly, advertised the “Westin” brand and that this advertising may have potentially benefited the Premises. The Defendants deny the remaining allegations of paragraph 17 of the Complaint.
18. The Defendants deny the allegations of paragraph 18 for lack of sufficient information to form a belief as to the truth or falsity thereof.
19. The Defendants deny the allegations of paragraph 19 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
20. Defendant Westin License Co. denies the allegations of paragraph 20 of the Complaint.

Defendants Starwood Corp., Westin Management North, Westin Management East and Westin North America deny the allegations of paragraph 20 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.

21. The Defendants deny the allegations of paragraph 21 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
22. The Defendants deny the allegations of paragraph 22 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
23. The Defendants deny the allegations of paragraph 23 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
24. The Defendants deny the allegations of paragraph 24 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
25. The Defendants deny the allegations of paragraph 25 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
26. The Defendants deny the allegations of paragraph 26 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
27. The Defendants deny the allegations of paragraph 27 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
28. The Defendants deny the allegations of paragraph 28 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
29. The Defendants deny the allegations of paragraph 29 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
30. The Defendants deny the allegations of paragraph 30 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.

31. The Defendants deny the allegations of paragraph 31 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
32. The Defendants deny the allegations of paragraph 32 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
33. The Defendants deny the allegations of paragraph 33 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
34. The Defendants deny the allegations of paragraph 34 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
35. The Defendants deny the allegations of paragraph 35 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
36. The Defendants deny the allegations of paragraph 36 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
37. The Defendants deny the allegations of paragraph 37 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
38. The Defendants deny the allegations of paragraph 38 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
39. The Defendants deny the allegations of paragraph 39 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
40. The Defendants deny the allegations of paragraph 40 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
41. The Defendants deny the allegations of paragraph 41 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
42. The Defendants deny the allegations of paragraph 42 of the Complaint for lack of

sufficient information to form a belief as to the truth or falsity thereof.

43. The Defendants deny the allegations of paragraph 43 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
44. The Defendants deny the allegations of paragraph 44 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
45. The Defendants deny the allegations of paragraph 45 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
46. The Defendants deny the allegations of paragraph 46 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
47. The Defendants deny the allegations of paragraph 47 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
48. The Defendants deny the allegations of paragraph 48 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
49. The Defendants deny the allegations of paragraph 49 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
50. The Defendants deny the allegations of paragraph 50 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
51. The Defendants deny the allegations of paragraph 51 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
52. The Defendants deny the allegations of paragraph 52 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
53. The Defendants deny the allegations of paragraph 53 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.



54. The Defendants deny the allegations of paragraph 54 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
55. The Defendants deny the allegations of paragraph 55 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
56. The Defendants deny the allegations of paragraph 56 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
57. The Defendants deny the allegations of paragraph 57 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
58. The Defendants deny the allegations of paragraph 58 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
59. The Defendants deny the allegations of paragraph 59 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
60. The Defendants deny the allegations of paragraph 60 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
61. The Defendants deny the allegations of paragraph 61 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
62. The Defendants deny the allegations of paragraph 62 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
63. The Defendants deny the allegations of paragraph 63 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
64. The Defendants deny the allegations of paragraph 64 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.
65. The Defendants deny the allegations of paragraph 65 of the Complaint for lack of

sufficient information to form a belief as to the truth or falsity thereof.

66. The Defendants deny the allegations of paragraph 66 of the Complaint for lack of sufficient information to form a belief as to the truth or falsity thereof.

COUNT I: NEGLIGENCE

67. The Defendants repeat and incorporate by reference their responses to the allegations contained in paragraphs 1 through 66 of the Complaint.
68. The Defendants deny the allegations of paragraph 68 of the Complaint.
69. The Defendants deny the allegations of paragraphs 69(a) – (k) of the Complaint.
70. The Defendants deny the allegations of paragraph 70 of the Complaint.

AFFIRMATIVE DEFENSES

As and for their affirmative defenses, the Defendants assert the following:

FIRST AFFIRMATIVE DEFENSE

The Plaintiff's Complaint fails to state a claim against the Defendants upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The damages allegedly suffered by the Plaintiff, if any, were due to factors and causes other than, and wholly apart from, any alleged acts or omissions of the Defendants.

THIRD AFFIRMATIVE DEFENSE

The Plaintiff's damages were caused in whole or in part by the acts or omissions of third parties, for whom the Defendants are not responsible.

FOURTH AFFIRMATIVE DEFENSE

The injuries complained of by the Plaintiff were caused in whole or in part by her own negligence.

FIFTH AFFIRMATIVE DEFENSE

If the Plaintiff proves that the Defendants were negligent as alleged, and that the injuries complained of were caused by the negligence of the Defendants, the negligence of the Plaintiff was greater than the negligence of the Defendants and the Plaintiff is barred from recovery.

SIXTH AFFIRMATIVE DEFENSE

The injuries complained of by the Plaintiff were caused in whole or in part by her own negligence and any damages allowed should be diminished in proportion to the amount of the negligence attributable to the Plaintiff.

SEVENTH AFFIRMATIVE DEFENSE

The Defendants assert that to the extent that they had any duty to the Plaintiff, said duty was fully, completely and properly fulfilled in all respects.

EIGHTH AFFIRMATIVE DEFENSE

The Plaintiff's Complaint is barred by reason of a lack of subject-matter and personal jurisdiction over the Defendants.

NINTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred, in whole or in part, by the doctrine of waiver.

TENTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the doctrine of estoppel.

ELEVENTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the doctrine of laches.

TWELFTH AFFIRMATIVE DEFENSE

The Plaintiff has failed to mitigate her damages.

THIRTEENTH AFFIRMATIVE DEFENSE

The Plaintiff's Complaint is barred by reason of improper venue.

FOURTEENTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the applicable statute of limitations.

FIFTEENTH AFFIRMATIVE DEFENSE

The Plaintiffs claims are barred by the doctrine of pre-emption.

SIXTEENTH AFFIRMATIVE DEFENSE

The Plaintiffs claims are barred by insufficiency of service of process.

SEVENTEENTH AFFIRMATIVE DEFENSE

The Plaintiffs claims are barred because she was not lawfully on the premises which are the subject of this action.

WHEREFORE, the Defendants, and each of them, pray:

1. That judgment enter in their favor with respect to the Complaint;
2. That this Court award them costs, including reasonable attorney's fees; and
3. For such other relief as this Court deems just and proper.

STARWOOD HOTELS & RESORTS  
WORLDWIDE, INC., WESTIN LICENSE  
COMPANY, WESTIN MANAGEMENT  
COMPANY NORTH f/k/a WESTIN LICENSE  
COMPANY NORTH, WESTIN  
MANAGEMENT COMPANY EAST and  
WESTIN NORTH AMERICA  
MANAGEMENT COMPANY

By their attorneys,

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